

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION
AND IS NOT BINDING PRECEDENT OF THE BOARD**

Filed by: Trial Section Merits Panel
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Paper No. 8

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

LUTZ FREITAG,

Junior Party,
(Patent 5,601,593)¹

v.

PAUL H. BURMEISTER, CHARLES L. EUTENEUER,
BRIAN J. BROWN, PAUL J. FORDENBACHER
and ANTHONY C. VRBA

Senior Party,
(Application 08/737,492)²

Patent Interference No. 105,036

Before SCHAFER, LEE and TORCZON, Administrative Patent Judges.

LEE, Administrative Patent Judge.

Judgment

¹ Based on application 08/517,162, filed August 18, 1995. The real party in interest is Willy Rusch AG.

² Filed March 19, 1997. Accorded the benefit of application 08/246,320, filed May 19, 1994; and PCT/US95/06228, filed March 18, 1995. The real party in interest is Scimed Life Systems, Inc.

Interference No. 105,036
Freitag v. Burmeister

On November 4, 2002, Junior party Freitag filed a paper stating:

This is to advise that the Junior Party will not pursue this interference.

The notice appears to be a concession of priority and thus is treated, under 37 CFR § 1.662(a), as a request for entry of adverse judgment. The request is **granted**.

It is

ORDERED that judgment as to the subject matter of the count is hereby entered against junior party LUTZ FREITAG;

FURTHER ORDERED that junior party LUTZ FREITAG is not entitled to its patent claims 1-6 and 9 which correspond to the count; and

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and 37 CFR § 1.666; and

FURTHER ORDERED that a copy of this judgment be filed in the respective involved application or patent of the parties.

Interference No. 105,036
Freitag v. Burmeister

Richard E. Schafer)	
Administrative Patent Judge)	
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)	
)	
)	BOARD OF PATENT
Jameson Lee)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
)	
Richard Torczon)	
Administrative Patent Judge)	

Interference No. 105,036
Freitag v. Burmeister

By Facsimile

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